

U.S. Department of Justice
RJM:HA:DHW:sam

Notice to Close File

File Number: Case Title: Date:

DJ 144-1-3413 Floyd Simpson -- Subject;
William Moore - Victim;
CIVIL RIGHTS

MAR 8 2013

YOU ARE ADVISED THAT THE ABOVE FILE HAS BEEN CLOSED AS OF THIS DATE.

Remarks/Special Information:

A federal criminal civil rights violation cannot be proven because there is insufficient independent eyewitness corroboration of allegations. There is no federal jurisdiction because of the expired statute of limitations.

To:

Files Unit

Civil Rights Division

Signature:



Division:

Daniel H. Weiss

Civil Rights Division

FORM OBD-25-A

MAR. 81



U.S. Department of Justice

Civil Rights Division

RJM:PF:DW:sam
DJ 144-1-3413

Criminal Section - PHB
950 Pennsylvania Ave, NW
Washington, DC 20530

(b)(7)(C)

Clarksdale, MS 43115

Dear (b)(7)(C)

We are writing to inform you that the Department of Justice and the Federal Bureau of Investigation (FBI) recently conducted a review of the circumstances surrounding the death of your [redacted] William Lewis Moore, on April 23, 1963. We regret to inform you that we are unable to proceed further with a federal criminal investigation of this matter because the local investigation undertaken following your [redacted] death and the additional federal investigation conducted in 2010-2012 have failed to identify any eyewitness or viable suspect in your [redacted] death. Please accept our sincere condolences on the loss of your [redacted] (b)(7)(C)

Over the last 50 years, the Civil Rights Division of the Department of Justice has been instrumental in bringing justice to some of the nation's most disturbing civil rights era crimes. Today, the Division continues to use its resources and expertise to identify, locate, and, where possible, prosecute those responsible for committing racially-motivated crimes committed more than 40 years ago.

In 2006, the FBI began its Cold Case Initiative, a comprehensive effort to identify and investigate racially-motivated murders committed decades ago. Toward that end, each of the 56 FBI field offices searched their cold case files to identify incidents which might be ripe for investigation. In February of 2007, the FBI announced the next phase of the initiative, which includes a partnership with the National Association for the Advancement of Colored People (NAACP), the Southern Poverty Law Center (SPLC), and the National Urban League to assist the FBI in identifying additional cases for investigation and to solicit their help. In October 2008, the Emmett Till Unsolved Civil Rights Crime Act (Emmett Till Act) became law giving the Department of Justice additional tools to investigate violations of criminal civil rights statutes . . . result[ing] in death that occurred not later than December 31, 1969.

The federal review concerning your [redacted] (b)(7)(C) death was begun pursuant to the Cold Case Initiative and the Emmett Till Act. This review was conducted by FBI Special Agents and an experienced cold case civil rights prosecutor. We have now concluded that review and wish to inform you in writing of our findings.

As part of its review of the circumstances of your (b)(7)(C) death, the FBI reviewed records from the Alabama Bureau of Investigation, the Etowah County Sheriff, and its own files. The FBI also reviewed the available records regarding the grand jury proceedings; researched and reviewed contemporary news accounts; and contacted and interviewed numerous local law enforcement officials and attorneys.

The Alabama Investigative and Identification Division (Alabama I & I), assisted by the Etowah County Sheriff investigated Moore's death. Investigators concluded that Moore was struck and killed by two .22 caliber bullets. Two empty .22 Smith cartridge hulls were found on the ground near the body and analyzed. Floyd Simpson was identified as a possible subject due to his contacts with Moore on the same day as the murder. Several witnesses saw a 1950, '51 or '52 black Buick near the victim prior to the shooting; Simpson owned a 1950 black Buick. Floyd Simpson was arrested and his .22 automatic rifle was confiscated from his home. The rifle, along with the bullets and hulls, were provided to the FBI laboratory for forensic examination.

Investigation revealed that Moore was a civil rights advocate, who was a mail carrier in Baltimore, and while on vacation, took it upon himself to deliver a hand written letter to the governor of Mississippi by traveling on foot. Moore started his march in Chattanooga, Tennessee on Sunday afternoon, 2:45 p.m. on April 21, 1963. He pulled a small cart with his personal possessions and wore two placards. The front placard read "Eat at Joes Place, both black and white" and the back placard read, "Equal Rights for All, Mississippi or Bust." Moore also displayed a poster with an image of Jesus captioned, "Wanted for Sedition." As the victim traveled down U.S. 11, he entered Alabama and walked across DeKalb County. When he approached the grocery store operated by Floyd Simpson, he was approached by Simpson and two other men, Jack (b)(7)(C) Killian. According to Simpson, the men talked about Moore's religious beliefs and belief in integration. Moore continued down the highway. At approximately 3 p.m., Gad Killian, (b)(7)(C) (b)(7)(C) stopped by Simpson's store. Upon hearing of the earlier encounter with Moore, Gad Killian and Simpson drove down Route 11 and confronted Moore regarding his views on integration, interracial marriage and religion. A Gadsden Times news story from the time reported that Moore recorded the following entries in his journal:

10:30 - invited to chat with a few men who had heard about my walk on TV (the first news break). They didn't think I'd finish my walk alive. They didn't think people believed I really stood for the things I do.

3:30 - fellow says my walk mentioned in today's Birmingham Post-Herald. A couple of men who had talked to me before drove up and questioned my religious and political beliefs. "Now, I know what you are. And one was sure I'd be killed for them such as my 'Jesus' poster on my buggy.

The location of Moore's journal is not known.

Unrelated to the Killian/Simpson interaction, Alabama I & I had been monitoring Moore's march through Alabama and contacted the Etowah County Sheriff's Office to alert them that Moore was now walking though the county barefoot and carrying signs. Alabama I & I requested that the Sheriff pick up the victim for mental observation. (b)(7)(C)

(b)(7)(C) aware that uprisings in Birmingham had reached a critical point, feared for Moore's life if he continued his march to Birmingham. (b)(7)(C) hoping to incarcerate Moore to avert the potential for violence, conferred with (b)(7)(C) to ascertain if Moore was violating any law by marching on Highway 11.

(b)(7)(C) traveled on Route 11 until he made contact with Moore, who was sitting on the side of the road. At 7:30 p.m. (b)(7)(C) interviewed Moore for about thirty minutes, regarding integration, his home address, his occupation, and other pertinent information.

(b)(7)(C) learned that Moore was a postal worker from Baltimore, on vacation from his job, carrying \$59 in cash. Moore was walking on the left side of the pavement and was not impeding traffic and, therefore, violating no laws. (b)(7)(C) understood that the victim planned to spend the night at the D & J Truck Stop, 3 or 4 miles down the road from their encounter. (b)(7)(C) prevailed upon Moore to abandon the trip because his life would be in danger, but Moore would not heed this advice.

At 8:59 p.m., the Highway Patrol notified (b)(7)(C) that a body was lying on the edge of the highway about four miles south of the Etowah/Dekalb County line. (b)(7)(C) responded and found Moore's body with two .22 caliber bullet wounds to the head and throat.

Further investigation included contact with two employees of the Gadsden Times and (b)(7)(C) (b)(7)(C) in Gadsden, who volunteered that they had received an anonymous phone call at the Times in which the caller first asked for the staff writer and, in the absence of the staff writer, advised them to go north on US 11 about seven miles beyond Reeseville and they would find something that was newsworthy. (b)(7)(C) stated he received a similar call. These three people immediately went north on US 11. As they traveled north on US 11, they saw a 1950 black Buick pulled off the highway with a big, heavy man sitting in the drivers' seat.

(b)(7)(C) reported that he saw Moore as he came into the north part of Collinsville on US 11 and that he saw a well-dressed man in a black 1963 Cadillac speak with Moore, before Moore continued his walk. A search for the 1963 Cadillac proved unsuccessful. A (b)(7)(C) at Byron's Café in north Collinsville reported that Moore entered the restaurant to use the restroom and purchase a plate lunch before continuing south on US 11.

(b)(7)(C) A (b)(7)(C) who lived about 6/10 of a mile north of the murder scene observed a black (b)(7)(C) Buick, 1950 or '51, turn around in (b)(7)(C) yard. (b)(7)(C) stated that the Buick was occupied by an average-sized man with black hair combed straight back, but (b)(7)(C) later reported the man could (b)(7)(C) have been wearing a cap. (b)(7)(C) noticed that the first two numbers on the car's license plate were 28, the proper prefix for a DeKalb County license plate. (b)(7)(C)

Further investigation revealed that Simpson lived in Ft. Payne, Alabama, the county seat of DeKalb County, and that Simpson owned a 1950 black Buick, which matched the description of the Buick seen by the witnesses.

Simpson was interviewed at the jail in Gadsden. Simpson acknowledged that Moore stopped at his store on the date of the murder and that they conversed before Moore continued on his march. Simpson would not submit to a lie detector test, and when asked about events after 4 p.m. on the day of the murder, he refused to answer further questions.

(b)(7)(C) Further information was received from a [redacted] from Collinsville, Alabama, who advised that [redacted] (b)(7)(C) the Gulf Service Station at the intersection of US 11 and US 77 on the night of Moore's death. At about 8 p.m. this [redacted] was driving home from work, north (b)(7)(C) of Route 11. As [redacted] drove up the highway [redacted] saw some tail lights blink on the side of the road. (b)(7)(C) Fearing that it might be a patrol car, the [redacted] slowed down and observed it to be a 1950, '51 (b)(7)(C) or '52 black Buick parked at the Sizemore Farm where Moore was killed. The car was parked (b)(7)(C) parallel to the highway with the front of the car pointing north, but the [redacted] did not see (b)(7)(C) anyone in, near or about the car. After passing the car, the [redacted] next saw a man walking on (b)(7)(C) the left shoulder of the road wearing a sign that said "Eat at Joe's Place," and pulling a small (b)(7)(C) cart. The [redacted] drove by, but thought it odd that [redacted] saw the Buick's brake lights go on and off, (b)(7)(C) but no one around the car. The [redacted] was shown Simpson's Buick. The [redacted] (b)(7)(C) could not (b)(7)(C) swear that it was the same car, but stated that it looked similar. (C)

On April 25, investigators went to Simpson's store, where a number of men were gathered, including a large man who [redacted] (b)(7)(C) and [redacted] (b)(7)(C) identified as the large (b)(7)(C) man seen near the murder scene. The man was identified as [redacted] (b)(7)(C) and detained for (b)(7)(C) questioning. [redacted] submitted to a lie detector and the investigator concluded that [redacted] (b)(7)(C) had no (b)(7)(C) knowledge regarding the death of Moore. Gad Killian was interviewed but investigators (b)(7)(C) concluded that he had no knowledge of the murder. Gad Killian died in 2008.

On April 27, 1963, Simpson was charged with First Degree Murder and released on \$5000 bond.

The State Toxicologist examined Moore's clothes, but found no evidence of powder granules or powder burns. Blood taken from Moore's body was examined with negative results for the presence of alcohol. An autopsy of Moore's body revealed two gunshot wounds: one to the neck that exited the back of the head, and a second to the left forehead, which was determined to be the cause of death.

(b)(7)(C) State of Alabama toxicologist, compared the hulls recovered at the murder scene and bullets recovered from Moore's body to known test rounds fired from Simpson's rifle. (b)(7)(C) examination revealed that the markings on the hulls were identical to the markings on the test casings (firing pin impression, extractor marks and ejector marks). A

comparison of the bullets removed from Moore's body to the test bullets revealed coincidental land and groove markings, but because the bullets recovered from the body were badly battered, a positive match could not be made. Class characteristics of those identifiable and preserved impressions were identical to those of the test bullets relative to the width and depth of land and groove impressions and direction of twist.

Alabama state toxicologist Robert Johnson opined that the cartridges found at the scene were fired from Simpson's rifle. Examination of the lead bullets revealed scant evidence available for comparison. The marks were similar as far as detail allowed study; however, insufficient detail was available to constitute a positive match. In Johnson's opinion, the bullets were consistent with having been fired by Simpson's rifle; however, insufficient detail was available to constitute a definitive positive match.

Analysis by FBI forensic examiner (b)(7)(C) revealed similarities between the recovered hulls and test hulls fired from Simpson's gun, but were insufficient to support a definitive identification, merely suggesting the possibility that Simpson's gun may have fired the cartridge cases, but it would not be possible to eliminate other guns of the same type.

The investigative file contains correspondence between FBI Director J. Edgar Hoover and Solicitor Rayburn confirming that (b)(7)(C) analysis noted similarities between the test cartridges and those recovered at the crime scene, but the similarities were not sufficient to support identification. Director Hoover offered to make (b)(7)(C) available to appear before the grand jury, so long as no other expert in the same scientific field would be used by the prosecution.

On August 19, 1963, Solicitor Rayburn wrote to Toxicologist Bob Johnson to advise that while he would have liked to elicit the testimony of both Mr. Johnson and FBI examiner (b)(7)(C) before the grand jury, however FBI Director Hoover was emphatic that the commitment of (b)(7)(C) testimony was based on the condition that no other expert in the same scientific field would be called. (b)(7)(C) explained that based on the above, the prestige of the FBI, "along with the fact that we here in Alabama are not attempting to hide anything," (b)(7)(C) was the only expert placed before the Grand Jury.

The case was presented to the Etowah County Grand Jury on September 13, 1963, but no indictment was returned. In a letter to (b)(7)(C) Solicitor Ryburn wrote:

As you probably know, the State presented all of the evidence that we had, including your own and the Grand Jury did not think that it was sufficient to return an indictment upon. As a matter of fact, besides your testimony to the effect that you could not positively say that the cartridges found at the scene of the crime were fired from Simpson's gun, we had the testimony of a witness who supposedly had seen the accused's car a few minutes prior to the crime. However, this witness could not say positively that it was the accused's - only that it was a car similar to the car of the accused.

Further, we presented another witness who testified he had seen the accused's car an hour or so prior to the crime. However, he stated that the description of the man in the car was a large man. In particular he noticed that he had a very large arm, and this description does not at all fit the physical description of the accused. Inasmuch as Mr. Simpson is a man of small or medium build.

Simpson died on February 22, 1998 without any additional charges having been pursued.

FBI commenced its investigation on January 11, 2010, as part of the Civil Rights Era Cold Case Initiative. A review of newspaper reports, television interviews and a review of FBI's indices from the 1960's and '70's make multiple references to (b)(7)(C) involvement in the United Klans of American and the National Kings of the KKK. (b)(7)(C) was exalted Cyclops (president) in DeKalb County, grand dragon (or state head) in Alabama and titan (or organizer) in North Alabama.

FBI interviewed an attorney whose father represented Simpson. The attorney told investigators that his firm had no records pertaining to the matter. He stated that his father's office burned in 1966 or 1967 and that his father died in 1985. Simpson's attorney from Ft. Payne died in 1990. This attorney's son was also interviewed and a search for office records revealed that they had been destroyed in 2003.

A reporter for the Gadsden Times was interviewed. She reported being very familiar with the matter, having written a multipart newspaper article in 2003. She provided copies of period newspaper articles and copies of various photos.

(b)(7)(C) who was DeKalb County (b)(7)(C) was interviewed. (b)(7)(C) was hired in 1961 as an (b)(7)(C) [redacted] recalled that on the day of Moore's murder, (b)(7)(C) [redacted] was ordered by [redacted] Sheriff to ensure Moore made it through DeKalb County unharmed. (b)(7)(C) [redacted] rode with a (b)(7)(C). They drove south on US 11 and made contact with Moore. Moore was carrying a suitcase and wearing a sign that said "Mississippi or Bust." They had a brief conversation and Moore stated that he had not been threatened and did not feel that he was in danger. Moore said he would keep walking, then sleep somewhere on the side of the road. (b)(7)(C) then continued south on Highway 11 to the DeKalb/Etowah County line. They observed Moore cross into Etowah County and continue south. After a short while, (b)(7)(C) drove north, returning to Fort Payne.

(b)(7)(C) heard of Moore's murder later that night and over the years has heard rumors as to who was involved, but does not know the identity of the shooter. [redacted] stated that the FBI (b)(7)(C) interview was the first time he had been interviewed about this incident and that DeKalb County (b)(7)(C) had been a very quiet place over the years. [redacted] acknowledged that the KKK was active in DeKalb County in the 1960s, including during the timeframe of Moore's murder and its members were mainly blue collar and construction workers. [redacted] was aware that (b)(7)(C) (b)(7)(C) was a construction worker and a Klan member. [redacted] could not recall hearing rumors linking (b)(7)(C) Jack Killian to the murder.

(b)(7)(C) was Etowah County (b)(7)(C). (b)(7)(C) was (b)(7)(C) familiar with the Moore case and believed that Simpson was the individual who killed Moore, but that there may not have been enough evidence to support an indictment. (b)(7)(C) did not believe there are any other viable suspects in this case.

(b)(7)(C) the Etowah County (b)(7)(C) on the scene after Moore's death was interviewed. (b)(7)(C) also believed Floyd Simpson was the person who shot Moore and had no information regarding other possible suspects.

(b)(7)(C) (b)(7)(C) was contacted and (b)(7)(C) declined to be interviewed. In a prior interview for a newspaper article, A Stain on Alabama, that was published in the Los Angeles Times on October 27, 2002, (b)(7)(C) stated that (b)(7)(C) was the only person still alive who saw Moore at the store on the day of Moore's murder. (b)(7)(C) recalled that (b)(7)(C) was present when Moore walked into Simpson's store looking for a snack. While at the store, (b)(7)(C) Jack, and Simpson spoke with Moore about the reasons for his walk, asking him "Why not walk for the American Indians," to which Moore responded, "They're not as bad off as the black folks are."

(b)(7)(C), claimed to have been out of town on a delivery at the time of Moore's murder. The article reports that, according to witness and police reports, Simpson was agitated by Moore's beliefs, including his sign about Christ consorting with prostitutes. Later in the day, Simpson drove Gad Killian, (b)(7)(C) and the owner of the store Simpson ran, to catch up with Moore.

Gad Killian was interviewed for the 2002 Los Angeles Times report and was quoted as saying, "It was odd, him walking like that, and I wanted to see him." Simpson and Killian caught up with Moore and talked with him for a few minutes before driving back to the grocery store, Gad Killian says. "I don't know anything about what happened. And neither does Floyd. He was right there in that [shop] window around the time it happened. My (b)(7)(C) was driving by and waved at him and he waved back. Now, how could he have been down there?" The article notes that (b)(7)(C) referred to that passing wave as an ironclad alibi for Simpson, though it doesn't show up in the prosecutor's files. What does show up is Simpson's refusal to discuss what he did once he and Gad Simpson returned to Simpson's store.

(b)(7)(C) Floyd Simpson's (b)(7)(C) was interviewed. (b)(7)(C) confirmed that Simpson's wife died in (b)(7)(C) 2007. (b)(7)(C) could not recall either Simpson or his wife ever mentioning the Moore death. (b)(7)(C)

An exhaustive review conducted by the FBI and attorneys from the Department of Justice Civil Rights Division did not produce any new leads. Instead, the review suggests that the most probable subject involved in the murder is Floyd Simpson, who is deceased.

After careful review of this incident, we have concluded that the federal government cannot pursue a prosecution in this case. Despite both a contemporaneous investigation and the recent Federal review, no eyewitnesses were located or viable suspects identified. Additionally, even if suspects had been identified, the federal government may not have been able to prosecute them because the five-year statute of limitations has expired. Accordingly, we have no choice but to close our investigation.

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We regret that we cannot be of further assistance to you. Again, please accept our sincere
condolences for the loss of your (b)(7)(C)

Sincerely,

Paige M. Fitzgerald
Deputy Chief in Charge
of the Cold Case Initiative